

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RESEA PROJECTS APS

Plaintiff,

v.

RESTORING INTEGRITY TO THE
OCEANS, INC. AND KIERAN KELLY

Defendant.

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CAUSE NO. 5:21-CV-1132-JKP

DECLARATION OF KIERAN KELLY

1. My name is Kieran Kelly. I am of sound mind, over the age of 18 and capable of submitting this declaration. I submit this declaration in support of the Response to Plaintiff's Emergency Application for Temporary Restraining order and Preliminary Injunction and Motion for Expedited Discovery.

2. I founded Restoring Integrity to the Oceans ("RIO") in 2019. After a lifetime in commercial fishing, I began to see the deleterious effect of plastic in the oceans and founded RIO to make a change. RIO's goal is to reclaim and recycle plastic that has made its way into oceans and waterways around the world. RIO partners with locals and empowers them to depollute their own local environment. RIO purchases the reclaimed plastic and pays its local partners by the pound. RIO partners with Logistics Plus, Inc., who provides support in transporting the collected plastic to recycling centers around the world. In return for this support, Logistic Plus, Inc. is permitted to claim some of RIO's plastic collections as part of Logistics Plus, Inc.'s environmental sustainability model. RIO has sought out other partners such as Logistics Plus, Inc. who can provide a necessary service to RIO.

3. I run the RIO operations in the Java region of Indonesia and has been in place in that country for the past two years. I work with locals to organize clean ups and create a network of individuals and officials to aid in the plastic collection efforts.

4. In its motion, ReSea alleges it competes in the same marketplace as RIO. This is not correct. ReSea, as it set forth, organizes local fishermen to collect plastic, which ReSea then

sorts, packages, tags, and takes to a waste bank for weighing.¹ ReSea then tokenizes that plastic on blockchain. ReSea monetizes these tokens by selling them to companies around world who can use the purchase to offset the companies' own plastic production. The plastic itself is not sold to ReSea's customers, only the token. In essence, what ReSea's customers are buying is a weight of plastic recovered from the oceans and properly disposed of.² As ReSea put it, its customers "leverage their plastic-removal commitments to meet their individual sustainability goals and/or support their sustainable brand profiles. *See* Breck Decl., at ¶ 6. To make an analogy, ReSea is selling reclaimed plastic stock.

5. RIO on the other hand does not sell reclaimed plastic stock. Instead, it sells the actual plastic it collects from the oceans and rivers and sells it directly to recyclers. RIO does offer offsets, but only to companies that can provide services to RIO in return.

6. Beginning in April 2021, RIO purchased several thousand bags of plastic from an individual named Febri Heryanto. Heryanto who had solicited RIO months earlier on the prospect of RIO buying plastics he represented were collected from the ocean by fishermen. *See* Exh. A-2 (screenshots of Kieran's WhatsApp communication with Heryanto). At no time did Heryanto or his associates represent that the plastics being sold had been collected by ReSea. In fact, Heryanto represented that he collected the plastic from fishermen.

¹ See generally, [Certified Cleanup | Proof of Impact | Traceability \(reseaproject.com\)](#) <https://www.reseaproject.com/certification> (last visited on Jan. 24, 2022) (the seven captioned picture slide show)

² As an example, see Exhibit A-1 Pres Release, Stoli Group, Stoi Honors World Ocean Day Announcing Partnership with ReSea Project to Fight Ocean Plastic Pollution (June 8, 2021) [Stoli® Honors World Ocean Day Announcing Partnership with ReSea Project to Fight Ocean Plastic Pollution \(prnewswire.com\)](#)



Id., at p. 14.

7. In May 2021, Heryanto delivered a load of bagged plastic to RIO's warehouse in Jakarta. *Id.* The majority of the bags had tags containing ReSea's name and a number sequence. These bags weighed significantly more than what a bag of that size would typically weigh. Initially, Heryanto claimed that the bags were wet either from rain or insufficient dry out time. *Id.*, at p. 26-27. However, after measures to extract water was ineffective, I opened a few bags and found stones.

8. In later shipments of the bags, I found other adulterants.

9. I found regularly cut sections of high quality rope and high quality fishing net. This is highly peculiar because rope and net are highly valuable to the poor fishermen in the Jakarta

region. In my experience, such items would be coveted and cared for by the fishermen, and would not be so summarily discarded as was seen in the ReSea bags.

10. In several bags, I found thick, black oil adhered to the plastic. This is significant because of the way dissipated oil adheres to wet plastic. It is common for plastic to be found in areas also polluted by petro chemicals. Oil sheens are often seen around the plastic being collected. When RIO dries these plastics, that oil becomes a light coating of clear grease at most. Heavy oil in seawater may become a light gray sludge. The thick, black oil I saw in those bags appeared more like motor oil poured directly over dried plastic. Further, the oil was not evenly distributed within the bags, but was found primarily at the top of the bags, near the opening.

11. Notably, the ReSea bags I opened contained primarily LDPE plastic, such as what is used in single-use plastic bags. LDPE is difficult and costly to recycle. Because of this, recycling centers in Jakarta often will not purchase LDPE plastic, preferring to purchase PET and HDPE plastics used in plastic bottles and containers because they are more economical to recycle. As a result, LDPE plastic is much less valuable than PET and HDPE.

12. Additionally, I was informed that ReSea's bags were also found at an illegal dumpsite on the banks of the Cisdane River in Tangerang, Baten, Indonesia, just south of the Jembatan Cisdane Kali Baru bridge. I traveled to the area and observed bags wearing ReSea's tag, similar to those RIO had been sold by Febri Heryanto.

13. On September 12, 2021, I exchanged emails with Ann Sofie Gade, a General Manager of Resea in an effort to alert ReSea to the conditions of the plastic sold by Febri to RIO and the bags on the riverbank. Of note, in that email, Ms. Gade admitted that ReSea had been unable to enter into Indonesia due to the pandemic. See Exh. A-3 (Ann Gade email). From ReSea's Facebook page, it appears that they were unable to reach Indonesia until November 2021. See Exh. A-4 (2021-11-12 Post on ReSea's Facebook page).

14. In a later telephone call, I spoke with Gade and "Klaus" who represented himself as the CEO of ReSea's parent company,³ and informed ReSea of the condition of the bags

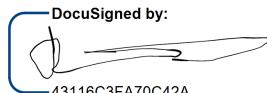
³ RIO has information and is of the belief that ReSea was founded and may currently be affiliated with Pack Tech A/S, a Danish plastic packaging manufacturer. See OceanWastePlastics.com, Ocean Waste Plastic Press Release, <https://www.oceanwasteplastics.com/pressrelease-resea-project> ("Pack Tech has placed the collection of plastics from the oceans in a separate company called ReSea Project (a company owned by the same group behind Pack Tech A/S). ReSea Project now handles the collection of plastics generated by OWP, as well as the processing of the collected plastic as well."); ReSeaProject.com, <https://www.reseaproject.com/faq> (ReSea Project was established

Heryanto had sold RIO and the bags he observed on the river banks. In that call, Klaus acknowledged that they did not have any ReSea personnel in Indonesia and relied entirely on their local agents. He also admitted that ReSea's bags were supposed to be taken from the waste bank directly to be burned. He claimed he did not know how it was that ReSea's bags or why ReSea's bags were being resold were being discovered on the riverbank.

15. Initially, I agreed to provide ReSea with the location on the river where ReSea's bags were found; however, on contemplating the fact that ReSea intended to burn the plastic and the effect that practice has on the air quality of Jakarta, I delayed in sharing the location and instead had the bags collected for recycling.

16. ReSea claims that it is able to use the blockchain technology to track and trace the plastic collected. However, per ReSea's website and press releases state that their traceability is limited to the plastic's journey from the ocean to the waste bank, and never mentions tracing that occurs after the plastic leaves the waste bank.⁴ In fact, ReSea states on its website that it delivers the plastic to local waste banks, who in turn distribute the plastic waste for recycling and "waste handling."⁵ The fact that its thousands of pounds of plastic could be removed from one of its waste banks and sold to RIO is evidence of the limits of ReSea's efforts to trace their collected plastics. RIO does not participate on the VeChain platform that ReSea claims is used to track and inventory their plastic. Therefore, for purposes of their tracking, once their plastic was sold to RIO it was no longer traceable by ReSea or DNV.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DocuSigned by:

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 Kieran Kelly
 Executed on January 24, 2022.

1/24/2022

and developed with help from the Danish packaging company Pack Tech A/S. A company that focuses on innovative and sustainable packaging.)

⁴ See generally, [Certified Cleanup | Proof of Impact | Traceability \(reseaproject.com\)](https://www.reseaproject.com/certification), <https://www.reseaproject.com/certification> (last visited on Jan. 24, 2022).

⁵ See [FAQ | ReSea Project](https://www.reseaproject.com/faq), <https://www.reseaproject.com/faq> ("What happens to the plastic waste ReSea Project collects?) (last visited on Jan. 2, 2022).